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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,513	03/12/2004	Robert Ganley	1034497-000127	2375

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EXAMINER

MACPHERSON, MEOGHAN E

ART UNIT PAPER NUMBER

3732

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/799,513	Applicant(s) GANLEY, ROBERT	
	Examiner Meoghan E. MacPherson	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment received on 4/24/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7,8,12,13 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7,8,12,13 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment received on April 24, 2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al (US Patent No. 5,989,026).

Rogers et al disclose a two-piece dental abutment 200 comprising a metallic core 204 and a ceramic cuff 202 surrounding the core. Rogers et al also disclose that the metallic core is titanium (col. 1, line 64-col. 2, line 23; col. 5, lines 32-44; col. 6, lines 36-57; col. 8, lines 7-48 and 60-64; see Figures 17-20). Rogers et al teach an implant 130 fixed within a patient's jaw (the abutment fixed to the implant), and a dental prosthesis 180 fixed to the abutment (col. 1, line 64-col. 5, line 23; col. 5, lines 32-44; col. 6, lines 36-57; col. 10, lines 14-18; see Figures 11a-15). Rogers et al further teach a method for fabricating a dental implant restoration comprising fixing an implant within the jawbone of a patient, fixing an abutment with a metallic core and ceramic cuff to the implant, and fixing a dental prosthesis to the abutment (col. 1, line 64-col. 2, line 23; col. 4, lines 10-17; col. 10, lines 14-18).

Regarding claim 1, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a

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prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). As such, the intended use in conjunction with a ceramic dental prosthesis as recited in the preamble of the claim is given no patentable weight.

Also regarding claim 1, the color matching of the cuff is inferentially claimed as an infinite number of prosthetic teeth satisfy the claim. As such, the abutment of Rogers et al satisfies the claimed structural limitations.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al.

Rogers et al discloses a dental abutment that shows the limitations as described above except for the cuff color matching the dental prosthesis. It would have been obvious to one of ordinary skill in the art at the time the invention was made to color match the cuff to the color of the dental prosthesis as it is well known and readily practiced in the art of dental prosthetics to choose cuffs and prosthetics which match in overall color to provide a more aesthetically pleasing overall appearance of the restoration site.

6. Claims 7, 8, 12, 13, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al in view of Hinds' 568 (US Patent No. 6,309,568). Rogers et al discloses a dental abutment that shows the limitations as described above except for a ceramic prosthesis.

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Hinds' 568 teaches a ceramic prosthesis 80 used in conjunction with a dental implant and abutment system (col. 4, line 65-col. 5, line 4; col. 6, lines 25-30; see Figure 11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the implant abutment of Rogers et al to create a dental restorative system that provides improved material bonding/fixation between the prosthetic and the abutment.

Regarding claims 7 and 12, the color matching of the cuff is inferentially claimed as an infinite number of prosthetic teeth satisfy the claim. As such, the abutment of Rogers et al satisfies the claimed structural limitations. Also regarding the claims, it would have been obvious to one of ordinary skill in the art at the time the invention was made to color match the cuff to the color of the dental prosthesis as it is well known and readily practiced in the art of dental prosthetics to choose cuffs and prosthetics which match in overall color to provide a more aesthetically pleasing overall appearance of the restoration site.

Response to Arguments

7. Applicant's arguments with respect to claim 1-3, 7, 8, 12, 13, and 17-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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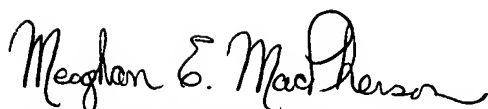
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

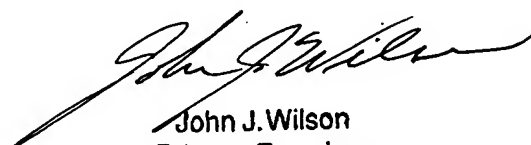
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meaghan E. MacPherson whose telephone number is (571)-272-5565. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571)-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Meaghan E. MacPherson


John J. Wilson
Primary Examiner